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Environmental Protection Agency

40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants: Flexible
Polyurethane Foam Fabrication
Operations; Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7024-9]

RIN 2060-AH42

National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for flexible polyurethane foam fabrication operations. The EPA has identified flexible polyurethane foam fabrication facilities as potential major sources of hazardous air pollutants (HAP) emissions such as methylene chloride, hydrochloric acid (HCl), 2,4-toluene diisocyanate (TDI), and hydrogen cyanide (HCN). Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes, effects on the central nervous system, and cancer.

These proposed NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring flexible polyurethane foam fabrication facilities that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that these proposed NESHAP will reduce nationwide emissions of HAP from flexible polyurethane foam fabrication operations by approximately 6.5 tons per year (tpy) for each new or reconstructed affected source. The emissions reductions achieved by these proposed NESHAP, when combined with the emissions reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before October 9, 2001.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by August 28, 2001, a public hearing will be held on September 7, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-2000-43, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in

duplicate if possible) to: Air and Radiation Docket and information Center (6102), Attention Docket Number A-2000-43, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A-2000-43 contains supporting information used in developing the proposed standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information about the proposed NESHAP, contact Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5607; facsimile number (919) 541-3470; electronic mail address noell.maria@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must note the docket number: A-2000-43. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Ms. Maria Noell, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 W. Chapel Hill Street, Durham, NC 27701. The EPA will disclose

information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. A request for a public hearing must be made by the date specified under the DATES section. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact: Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5607 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Maria Noell to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to identify and locate documents readily so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed NESHAP will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. Additional related information may also be found on the Air Toxics Website at <http://www.epa.gov/ttn/uatw/>. The TTN provides information and technology exchange in various areas of air pollution control. If more information

regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Regulated entities. Categories and entities potentially affected by this action include:

Category	SIC ^a	NAICS ^b	Regulated entities
Industry	3086	32615	Fabricators of flexible polyurethane foam.

^aStandard Industrial Classification.

^bNorth American Information Classification System.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.8782 of the proposed NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT SECTION**.

Outline. The information presented in this preamble is organized as follows:

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- B. What are the primary sources of emissions and what are the emissions?
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- F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
- G. Paperwork Reduction Act
- H. National Technology Transfer and Advancement Act of 1995
- I. Executive Order 13211 (Energy Effects)

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. On June 4, 1996 (61 FR 28197), we added the flexible polyurethane foam fabrication operation source category to our initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576). Based on information available in 1996, there were flexible polyurethane foam fabrication operations considered to be major sources because of the use of methylene chloride-based adhesives. Major sources of HAP are those that have the potential to emit greater than 10 tpy of any one HAP or 25 tpy of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-

controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy impacts.

C. What Are the Health Effects Associated With Flexible Polyurethane Foam Fabrication Operations HAP Emissions?

The primary HAP emitted from the use of adhesives to glue pieces of foam together or to other substrates is methylene chloride. The primary HAP emitted from flame lamination of foam is HCl; HCN and TDI also are present in small quantities.

The HAP that would be controlled with these proposed NESHAP are associated with a variety of adverse health effects. These adverse health effects include acute and chronic health disorders that include irritation of the lung, eye, and mucous membranes and effects on the central nervous system. We have classified methylene chloride as a probable human carcinogen, and the International Agency for Research on Cancer (IARC) has classified TDI as a possible human carcinogen.

We do not have the type of current detailed data on each of the facilities covered by the emissions standards for this source category, or on the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we

do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the proposed NESHAP will reduce emissions and subsequent exposures.

We present a discussion of the HAP-specific health effects in the following paragraphs.

1. Methylene Chloride

Acute (short-term) exposure to methylene chloride by inhalation affects the nervous system, causing decreased visual, auditory, and motor functions. These effects are reversible once exposure ceases. The effects of chronic (long-term) exposure to methylene chloride suggest that the central nervous system is a potential target in both humans and animals. Limited animal studies have reported developmental effects. Human data are inconclusive regarding methylene chloride and cancer. Animal studies have shown increases in liver and lung cancer and benign mammary gland tumors following the inhalation of methylene chloride. We have classified methylene chloride as a Group B2, probable human carcinogen.

2. Hydrochloric Acid

Hydrochloric acid is corrosive to the eyes, skin, and mucous membranes. Acute inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. We have not classified HCl for carcinogenicity.

3. 2,4-Toluene Diisocyanate

Acute exposure to high levels of TDI in humans by inhalation results in severe irritation of the skin and eyes and affects the respiratory, gastrointestinal, and central nervous systems. Chronic inhalation exposure to TDI in humans has resulted in significant decreases in lung function in workers, an asthma-like reaction characterized by wheezing, dyspnea, and bronchial constriction, and effects on the liver, blood, and kidneys. No information is available on the carcinogenic effects of TDI in

humans, but animal studies have reported increased incidences of tumors of the pancreas, liver, and mammary glands from oral exposure to TDI. We have not classified TDI for carcinogenicity. The IARC has classified TDI as a Group 2B, possible human carcinogen.

4. Hydrogen Cyanide

Acute inhalation exposure to high levels of HCN can result in death. Chronic inhalation exposure of humans to HCN results primarily in effects on the central nervous system. Other effects in humans include cardiovascular and respiratory effects, an enlarged thyroid gland, and irritation to the eyes and skin. No data are available on the developmental effects of cyanide in humans via inhalation, but animal studies have suggested that oral exposure to cassava (a cyanide-containing vegetable) may be associated with malformations in the fetus and low fetal body weights. No studies are available on the carcinogenic effects of cyanide in humans or animals. We have classified cyanide as a Group D, not classifiable as to human carcinogenicity.

II. Summary of the Proposed Standards

A. What Source Categories and Subcategories Are Affected by These Proposed NESHAP?

Today's proposed NESHAP apply to the Flexible Polyurethane Foam Fabrication Operations source category. This source category includes operations engaged in cutting, gluing, and/or laminating pieces of flexible polyurethane foam. This includes fabrication operations that are located at foam production plants, as well as those that are located off-site from foam production plants.

We have identified two subcategories under the Flexible Polyurethane Foam Fabrication Operations source category. These subcategories are loop slitter HAP-based adhesive use and flame lamination. Loop slitters are equipment at foam fabrication operations that are used to slice large foam blocks into thin sheets. Flame lamination refers to the bonding of foam to other substrates (i.e., cloth, foam, plastic, and other materials), where the bonding agent is scorched or melted foam.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

This section describes the primary sources of potential HAP emissions from loop slitter adhesive use and flame lamination.

1. Loop Slitter Adhesive Use

A loop slitter is a large machine used to create thin sheets of foam from the large blocks of foam or "buns" created at a foam production plant. Because of the difficulty of transporting the buns, loop slitters are generally located at foam production plants. A slitter consists of a large, vertical, oval conveyor belt, and a cutting mechanism. The buns are mounted on the conveyor and glued end-to-end, forming a loop. The conveyor spins the looped bun rapidly past a blade, which shaves off a sheet of foam in the desired thickness. The foam buns are very large (10 feet wide by 10 feet high by 200 feet long). As a result, the slitters typically operate for several hours before they must be reloaded with new buns of foam.

The only portion of the loop slitter process that uses adhesives is when attaching the buns end-to-end to form a loop. However, because of the nature of the process and the product produced, the adhesives used have different requirements than other typical foam fabrication adhesives. The rapidly spinning buns are subjected to great stress as soon as the machine is turned on, so the adhesive used must bond rapidly. Also, the seam where the buns are joined is a potential defect in the foam sheets that are the product of the process. Some adhesives (particularly water-based adhesives) produce a hard seam which is considered a product defect and can dull the knife-blades of the slitter. In order to comply with Occupational Health and Safety Administration (OSHA) regulations, loop slitters have converted from a reliance on methylene chloride-based adhesives to other non-HAP alternatives since the mid-1990's. As a result of the OSHA regulations, we believe that the foam fabrication industry has effectively discontinued use of methylene chloride-based adhesives, resulting in zero estimated baseline HAP emissions from loop slitter adhesive use.

2. Flame Lamination

In the flame lamination process, foam is scorched to adhere it to various substrates. This process releases particulates and HAP. We have identified HCN, TDI, and HCl as HAP emitted as a result of flame lamination. These HAP are a product of the combustion of unreacted diisocyanates from the foam production process (HCN and TDI) and the chlorinated fire retardant additives that are present in some polyurethane foams (HCl). Specific HAP released are dependant on the contents of the foam being laminated at a given time. With the

exception of HCl, these HAP are generally released in very small amounts.

The baseline emission estimates are generated from data obtained from individual facilities, as well as from State agencies to which facilities reported their annual emissions. Where reported emissions are not available, we calculated emission estimates using a HAP emission factor, the laminator's operating schedule, the number of flame lamination lines, and the percent of the operating time that fire retardant foam is laminated (used only when calculating HCl emissions). We estimated total nationwide baseline HAP emissions from flame lamination as 58.8 tpy HCl, 10.3 tpy HCN, and 3.0 tpy TDI, which amounts to a total of 72.1 tpy HAP.

C. What Are the Proposed Affected Sources?

The proposed NESHAP define two affected sources related to each of the proposed subcategories. The loop slitter adhesive use affected source is the collection of loop slitters and associated adhesive application equipment used to apply HAP-based adhesives to bond foam to foam at a flexible polyurethane foam fabrication plant site. Loop slitter affected sources, located at plant sites that are major sources of HAP, that are using HAP-based adhesives on or after [Date of publication of the final rule in the **Federal Register**] would be subject to the NESHAP, including the applicable emission limit and reporting and recordkeeping requirements. However, loop slitter affected sources that have eliminated use of HAP-based adhesives by [Date of publication of the final rule in the **Federal Register**] would not be subject to the NESHAP. The flame lamination affected source is the collection of all flame laminators and associated rollers at a flexible polyurethane foam fabrication plant site associated with the flame lamination of foam to any substrate.

D. What Are the Emission Limitations and Compliance Dates?

For existing, new, or reconstructed loop slitter adhesive use affected sources, we are proposing an emission limit of zero HAP emissions from adhesives use. This can be achieved through the use of non-HAP-based adhesives. Existing affected sources must be in compliance by [Date 1 year after date of publication of the final rule in the **Federal Register**]. New or reconstructed sources must be in compliance by the date of startup of the affected source, or by [Date of publication of the final rule in the **Federal Register**], whichever is later.

We are defining HAP-based adhesives as adhesives containing detectable HAP, where the concentration of HAP may be determined using EPA Method 311 (Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection Into a Gas Chromatograph). Method 311 is an established method that is appropriate for measuring the types of HAP used in these materials. The affected source may use approved alternative methods for measuring HAP content, or other reasonable means of HAP content determinations.

We are not proposing any emission limitations for existing flame lamination affected sources. Therefore, existing flame lamination affected sources would not be subject to the proposed NESHAP, except for a requirement to submit an initial notification within 120 days after [Date of publication of the final rule in the **Federal Register**]. For new and reconstructed flame lamination affected sources, the proposed NESHAP would require that facilities reduce HAP emissions from these affected sources by 90 percent. These affected sources would be required to be in compliance upon startup or by [Date of publication of the final rule in the **Federal Register**], whichever is later.

E. What Are the Testing, Initial Compliance, and Continuous Compliance Requirements?

We present the proposed testing, initial compliance, and continuous compliance requirements for the flexible polyurethane foam fabrication loop slitter adhesive use and flame lamination affected sources in the following paragraphs.

1. Loop Slitter Adhesive Use

We are proposing that loop slitter affected sources demonstrate initial and continuous compliance by certifying that no HAP-based adhesives are or will be used. The initial certification must be submitted within 60 days of the compliance date. The certification would be accompanied by documentation stating what the facility will use for adhesives, along with supporting information to document the HAP content of adhesives used at the facility, such as Method 311 results or other approved information. Thereafter, on a yearly basis, the source would recertify compliance, including HAP content information on any new adhesives used at the source.

While sources may use EPA Method 311, an approved alternative method, or any other reasonable means for determining the HAP content of adhesives, if the results of an analysis

by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations. Other reasonable means include a material safety data sheet (MSDS), provided it contains appropriate information; a certified product data sheet (CPDS); or a manufacturer's hazardous air pollutant data sheet. Sources are not required to test the materials used, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content.

2. Flame Lamination

For new or reconstructed flame lamination affected sources, we are proposing that initial compliance be demonstrated by conducting a performance test within 180 days after the compliance date that demonstrates that HAP emissions are being reduced by 90 percent. In order to demonstrate continuous compliance with this emissions limit, we are proposing to require continuous monitoring of control device parameters. Specifically for venturi scrubbers, which we believe will be the control device of choice in most situations, the proposed NESHAP would require that the pH of the scrubber effluent, the scrubber liquid flow rate, and the pressure drop across the venturi be monitored continuously. Continuous compliance would be demonstrated by these monitored parameters staying within the operating limits. Operating limits would be established for each parameter based on monitoring conducted during the initial performance test and reported in the facility's Notification of Compliance Status Report.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

The proposed NESHAP would require owners or operators of foam fabrication operations at major sources to submit several notifications and reports, which are listed and then briefly described in this section. First, we are proposing to require all owners or operators of affected sources to submit an Initial Notification. In addition, owners or operators of all flexible polyurethane loop slitter adhesive use affected sources and new or reconstructed flame lamination affected sources must also submit the following notification and reports:

- Notification of Intent to conduct a performance test (new or reconstructed flame laminators only)
- Notification of Compliance Status (NOCS) Reports

- Periodic Compliance Reports
- Startup, Shutdown, and Malfunction Reports (new or reconstructed flame laminators only).

For the Initial Notification, we are proposing to require that each owner or operator notify us that their facility is subject to the flexible polyurethane foam fabrication operations NESHAP, and that they provide specified basic information about their facility. This notification would be required to be submitted within 120 days after [Date of publication of the final rule in the **Federal Register**] for existing affected sources. New or reconstructed affected sources would be required to submit the application for construction or reconstruction required by § 63.9(b)(iii) of the 40 CFR part 63, subpart A General Provisions in lieu of the Initial Notification.

For the Notification of Intent Report, we are proposing that each new or reconstructed flame lamination affected source owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin. The NOCS Report would be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (e.g., performance test results and operating parameter values and ranges) would be submitted as part of the NOCS.

For sources complying with the standards for loop slitter adhesive use, the NOCS would be due within 60 days of the compliance date. These NOCS must list each adhesive used at the affected source, the manufacturer or supplier of each, and the individual HAP content (percent by mass) of each adhesive that is used.

For the Periodic Compliance Report, we are proposing that facilities subject to control requirements under the proposed NESHAP report on continued compliance with the flame lamination new source emission limit semiannually, and report on continued compliance with the loop slitter adhesive use HAP-based usage limit annually.

Finally, for the Startup, Shutdown, and Malfunction Report, we are proposing that each owner or operator of a new or reconstructed flame lamination affected source report any startup, shutdown, or malfunction during the reporting period that is not in the facility's startup, shutdown, and malfunction plan.

We also would require that each owner or operator maintain records of reported information and other

information necessary to document compliance (e.g., records related to malfunction, records that show continuous compliance with emission limits) for 5 years.

III. Rationale for Selecting the Proposed Standards

A. How Are We Defining the Source Category?

On June 4, 1996 (61 FR 28197), we added the Flexible Polyurethane Foam Fabrication Operations source category to our initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576). Based on information available in 1996, there were flexible polyurethane foam fabrication operations that were major sources because of the use of methylene chloride-based adhesives. Today's proposed NESHAP revise the 1996 definition of the source category. We are proposing that only fabrication operations using HAP-based adhesives to bond foam for use on a loop slitter and fabrication operations using flame lamination should be included in the source category. We are proposing to exclude non-slitter adhesive use from the source category.

In our analysis, we discovered that there are three distinct processes used in the gluing together of polyurethane foam pieces (i.e., use of adhesives on a loop slitter, use of adhesives in other foam fabrication operations, and use of flame lamination). We considered whether non-slitter and loop slitter adhesive use pose a potential to emit HAP, given the impact of the OSHA permissible exposure limit (PEL), which has resulted in foam fabricators moving to non-methylene chloride-based adhesives. Depending on the emission source, we believe companies potentially have different options to comply with the OSHA work place limits on methylene chloride. For example, loop slitter adhesive use is brief and intermittent, typically not occurring more than once during a single shift, and it is possible that some facilities could meet a time weighted average exposure if use were infrequent enough. Additionally, the adhesive could be applied by workers wearing respiration equipment, or a hood or other ventilation equipment could be added to the adhesive application station. All of these application methods have the potential to meet the exposure limits set by OSHA, but still result in methylene chloride emissions. In fact, we believe that most loop slitters have converted to non-HAP adhesives, but the potential for using ventilation-based compliance methods exists.

In contrast, non-slitter adhesive use generally occurs at numerous work stations, with multiple workers applying adhesive to foam parts throughout the work period. These conditions do not lend themselves easily to workers wearing respiration equipment or the air flow requirements to ventilate the working areas well enough to meet OSHA's PEL. Therefore, we believe these sources must convert to non-methylene chloride-based adhesives to meet the OSHA PEL, which eliminates methylene chloride emissions from the source.

In order to further evaluate current trends regarding the use of adhesives in foam fabrication, we contacted adhesive suppliers and foam fabricators. We found that acceptable alternatives to HAP-based adhesives are available and commonly used for many applications. Information available from owners or operators of 99 foam fabrication facilities indicates that they do not use any methylene chloride adhesives for their non-loop-slitter foam fabrication operations. The alternatives most frequently mentioned include water-based adhesives and non-HAP solvent-based adhesives using n-propyl bromide or acetone.

We do not believe that any non-slitter adhesive sources are using HAP-based adhesives, unless they are failing to comply with the OSHA PEL for methylene chloride. This is because the nature of the foam fabrication process at these facilities makes the use of individual respiration equipment or workplace ventilation infeasible. Based on available information and current conditions, we do not believe that additional controls from the NESHAP, such as a prohibition against the use of HAP-based adhesives, would result in any additional emissions reductions either now or in the future. In fact, the only impact would be the imposition of additional monitoring, reporting, and recordkeeping burden on the part of the industry that is thought to contain many small businesses.

As a result of this analysis, we are proposing to revise the source category definition to exclude non-slitter adhesive use. We are requesting comment and supporting information on this revision to the source category definition. Should we learn through the comment period on these proposed NESHAP that there are non-slitter adhesive sources using HAP-based adhesives that are located on the site of a major source, we would retain them in the source category and treat them as a third subcategory. A preliminary analysis indicates that a ban on HAP-

based adhesive use would represent the MACT floor for that subcategory.

B. How Did We Select the Affected Source?

For the purposes of implementing a NESHAP, an affected source is defined to mean the stationary source, or portion of a stationary source, that is regulated by a relevant standard or other requirement established under section 112 of the CAA. In other words, the affected source is composed of the group of unit operations, equipment, and emission points that are subject to the NESHAP. Under each relevant standard, we must designate the "affected source" for the purpose of implementing that standard. We do this for each source category (or subcategory) by deciding which HAP emission sources (i.e., emission points or groupings of emission points) are most appropriate for establishing separate emission standards or work practices in the context of the CAA statutory requirements and the industry operating practices for the particular source category.

We can define the affected source as narrowly as a single item of equipment or as broadly as all equipment at the plant site that is used to produce the product that defines the source category. The affected source also identifies the collection of equipment that would be evaluated to determine whether replacement of components at an existing affected source would qualify as reconstruction. Defining the affected source narrowly could affect whether some parts of a process unit would be subject to new source requirements and other parts of the process unit would be subject to existing source requirements.

We propose to separate the Flexible Polyurethane Foam Fabrication Operations source category into two subcategories: loop slitter adhesive use and flame lamination. We also propose to treat each subcategory as a separate affected source, because the HAP emissions, processes, and controls are significantly different between the two subcategories. Flame lamination emissions result from combustion products based on the composition of the foam rather than from evaporation of HAP-based adhesives. Add-on controls are feasible for flame lamination, whereas loop slitter adhesive use emissions reductions have resulted from pollution-prevention measures such as changing the type of adhesive to a water-based or other non-HAP based material.

We also considered how broadly to define each affected source. In both cases, HAP emissions are tied to a

collection of specific equipment. Therefore, the loop slitter adhesive use affected source is the collection of loop slitters and associated adhesive application equipment used to apply HAP-based adhesives to bond foam to foam at a flexible polyurethane foam fabrication plant site. The flame lamination affected source is all flame lamination lines (flame laminators and associated rollers) at a flexible polyurethane foam fabrication plant site associated with the flame lamination of foam to any substrate.

C. How Did We Select the Form of the Standards?

Section 112(d) of the CAA requires that standards be specified as a numerical emission standard, whenever possible. However, if we determine that "it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants," section 112(h) indicates that a design, equipment, work practice, or operational standard may be specified.

For the proposed standards, we selected an emission limit of zero HAP emissions from use of adhesives at loop slitter adhesive use affected sources. This format is consistent with current practices, because sources have converted to the use of non-HAP-based adhesives to comply with the OSHA PEL. In order to recognize the industry trend, we are proposing that sources that are not using HAP-based adhesives before the effective date of the NESHAP would not face any requirements under the NESHAP.

We selected a numerical emission limit combined with parametric operating limits for new and reconstructed flame lamination affected sources. Specifically, we are proposing requiring a 90 percent emission reduction of HAP at new and reconstructed flame lamination affected sources. The sources would then establish operating limits using performance test results and control device operating parameters.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

For source categories/subcategories with greater than 30 sources, MACT for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources. Further, MACT for source categories/subcategories with fewer than 30 sources cannot be less stringent than the average emission limitation achieved by the best-performing 5 sources. We have determined that "average" means any

measure of central tendency, whether it be the arithmetic mean, median, or mode, or some other measure based on the best measure decided on for determining the central tendency of a data set (59 FR 29196, June 6, 1994).

1. Loop Slitter Adhesive Use MACT

We estimate that there are 40 facilities nationwide with loop slitters. Information available from owners and operators of 30 facilities where loop slitters are located indicates that 22 facilities (55 percent of the total estimated number of facilities) use non-HAP adhesives. However, some facilities report that they may continue to use methylene chloride adhesives, at least in small quantities. We believe that it is feasible that loop slitters could continue to use these adhesives and still meet the OSHA exposure limits through technological means. Since non-HAP use represents greater than 12 percent of the loop slitter facilities, we concluded that the MACT floor for existing, new, and reconstructed loop slitters is the prohibition on the use of HAP-based adhesives.

2. Flame Lamination MACT

Of 21 known flame lamination facilities, we estimate that there are eight flame lamination facilities in the United States that are major sources of HAP (based on actual or potential HCl emissions). Because there are fewer than 30 sources, we evaluated the performance of the best performing five facilities to determine the MACT floor. Of the top five major sources, three facilities are uncontrolled and two facilities use scrubbers, which were installed to control particulate emissions and also reduce HCl and HCN emissions. Based on the mode of this data set, we concluded that the existing source MACT floor is no control.

After determining the MACT floor for flame lamination existing sources, we evaluated whether a level of control beyond the floor is justified. We considered requiring the use of a scrubber to reduce HCl and HCN emissions. However, the HAP emissions reductions that would be achieved by requiring a scrubber do not warrant the cost without further evaluation of risk. We determined the average incremental cost per ton of HAP emissions reduced to be approximately \$18,000.

We also considered whether the use of incineration would be a reasonable beyond-the-floor option to control HCN and TDI emissions from the flame lamination affected source. Two existing area source facilities presently control TDI and HCN emissions from these sources by using an incinerator, but do

not control HCl emissions. However, controlling these additional HAP emissions would cost approximately \$70,300 per ton of HAP emissions reduced for a representative source; thus, we are not proposing to control these emissions.

However, because we lack information on every operation in this industry, we are proposing to require existing major sources to submit an initial notification. This will ensure that if other information becomes available that would indicate a need for an emission limitation, we can readily identify potential major sources in this subcategory.

Since at least one facility uses a venturi scrubber that controls HCl and HCN emissions, we concluded that the new source MACT floor is based on manufacturer's claims that 90 percent reduction of HCl and HCN emissions is achievable using a venturi scrubber. Therefore, we selected a 90 percent HAP (measured as either HCl or HCN) emission reduction as MACT for new and reconstructed flame lamination affected sources.

It is possible that another control technology could achieve a larger emission reduction of the gaseous emissions. Venturi scrubbers, which are designed primarily to control particulate matter via impaction, interception and diffusion mechanisms, cannot achieve larger gaseous reductions because the high gas velocity does not permit sufficient contact time between the liquid and gas to allow more than 90 percent of the pollutant gas to be absorbed into the scrubber liquid. In contrast, scrubbers designed primarily for gas absorption (i.e., packed-tower scrubbers) can achieve a 99 percent gaseous pollutant removal efficiency when properly designed. However, gas absorbers are not recommended for use with gas streams containing particulate matter because they can become plugged with particulate matter, which would decrease their efficiency. Therefore, we concluded that it is not practical to use a gas absorber on a gas stream containing particulate matter.

We also considered whether controlling TDI and the residual HCN emissions from new sources was a reasonable beyond-the-floor option. However, reducing these additional HAP emissions would cost the same as for existing sources (approximately \$70,300 per ton of HAP reduced for a representative source); therefore, we are not proposing to control these emissions at this time.

Finally, we considered whether banning the flame lamination of foam containing chlorinated compounds was

a feasible beyond-the-floor option for existing, new, or reconstructed sources. We considered this option because we believe that HCl is emitted from flame laminators only when the foam being laminated contains chlorinated fire retardant. Therefore, banning the flame lamination of chlorinated fire retardant foams would effectively eliminate HCl emissions from flame lamination. This option does not achieve any control of HCN or TDI. However, no alternative fire retardant has been identified that would be adequate and appropriate for all flame lamination applications in which fire retardant foams are required, and we determined that this option is not feasible. We request comment and data on this issue.

E. How Did We Select the Testing, Initial, and Continuous Compliance Requirements?

We selected the proposed testing, initial, and continuous compliance requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). These requirements were adopted for flexible polyurethane foam fabrication facilities to be consistent with other part 63 NESHAP. These requirements will ensure that we obtain or have access to sufficient information to determine whether an affected source is complying with the standards specified in the proposed NESHAP.

1. Loop Slitter Adhesive Use

We determined that certifying use of complying adhesives and submitting supporting documentation on the HAP content of the adhesives used is the best method of assuring initial and continued compliance with a zero HAP emission limit for loop slitters. Therefore, we propose to require that initial and continued compliance with the zero HAP emission limit be demonstrated by having the owner or operator submit a certification in the Notification of Compliance Status Report stating that they are compliant, and will continue to be compliant, with the prohibition. We chose to require that this certification be supported with documentation that states what the facility uses for adhesives (i.e., materials and quantity) and that no HAP-based adhesives are used.

We determined that it would be an unnecessary burden for a facility to submit semiannual certifications if a facility does not use HAP-based adhesives and certifies with their initial certification that they will not use HAP-based adhesives in the future. Therefore, we only require annual certifications.

If after a facility submits the Notification of Compliance Status, it uses an adhesive for which it has not previously verified percent HAP mass using the methods in 40 CFR 63.8802, the facility must verify that each adhesive used in the affected source meets the emission limit, using any of the methods in § 63.8802. The facility must then update the list of all the adhesives used at the affected source and include this information in the next compliance report. If a HAP-based adhesive was used during this time, or if the facility added HAP-containing solvents to the adhesive as purchased, the facility would report a violation of the emission limit.

2. Flame Lamination

The proposed NESHAP would require a compliance test to determine initial compliance with the control efficiency requirement proposed for flame lamination operations at new or reconstructed sources. As proposed, sources that use chlorinated fire retardants and emit HCl would use EPA Method 26A (HCl) to determine the percent reduction of HCl emissions from the control device. Because HCN is at least as soluble in aqueous solutions, especially caustic solutions, as HCl, we believe testing for a single HAP (HCl) will demonstrate compliance with the requirement to reduce 90 percent of the HAP entering the control device.

However, some sources do not use chlorinated fire retardants in their foam. These sources would only emit HCN. Unfortunately, an EPA test method for HCN does not exist at this time. Therefore, the proposed rule would require sources to submit a proposed test method for the Administrator's approval prior to conducting the test. While we plan to develop an HCN method for inclusion in the final rule, we request your comments on potential test methods.

The General Provisions (at § 63.7(e)(3)) require that each test consist of at least three separate test runs. The proposed NESHAP adopt this requirement. Further, the proposed NESHAP require that each test run be at least 1 hour long.

In order to assure continuous compliance with the new source emissions limit for flame lamination operations, we are proposing to require the use of continuous parameter monitoring systems to monitor the pH of the scrubber effluent, the scrubber liquid flow rate, and, if a venturi scrubber is used, pressure drop. Continuous compliance would be demonstrated by these monitored parameters staying within the operating

limits, which would be established based on monitoring conducted during the initial performance test. These parameters were chosen to demonstrate continuous compliance because they are the best indicators of continued performance of scrubber control efficiency.

We considered requiring the use of HCl and HCN continuous emission monitoring systems (CEMS), but rejected that option. We were unable to identify any CEMS for HCN, which leaves parametric monitoring of the scrubber to demonstrate compliance as the only option. While there are readily available HCl CEMS, the cost of these compared to the cost of the control device is unreasonable. We calculated the capital cost for a venturi scrubber on a new or reconstructed flame lamination source to be approximately \$58,000, with an annualized capital cost of \$8,300. In contrast, the total cost to install and operate an extractive-based CEMS to monitor the efficiency of the scrubber is at least \$215,600, with annualized costs of nearly \$61,000 to monitor HCl. Use of Fourier Transform Infrared Spectroscopy (FTIS) is even more expensive (i.e., up to \$271,900 capital cost and \$104,600 annualized costs.) In contrast, the capital costs for parametric monitoring devices and a data recording device would be less than \$10,000 per facility.

F. How Did We Select the Notification, Recordkeeping, and Reporting Requirements?

We selected the proposed notification, recordkeeping, and reporting requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). As with the proposed initial and continuous compliance requirements, these requirements were adopted for flexible polyurethane foam fabrication plants to be consistent with other part 63 NESHAP.

IV. Summary of Environmental, Energy, Cost, and Economic Impacts

A. What Are the Air Quality Impacts?

We estimate that current HAP emissions from loop splitter adhesive users are essentially zero because of changes in adhesive composition as a result of the OSHA PEL for methylene chloride. Therefore, we do not expect any decreases from this subcategory resulting from the proposed NESHAP.

Nationwide baseline emissions from the flame lamination subcategory are 58.8 tpy HCl, 10.3 tpy HCN, and 3.0 tpy TDI, for a total of 72.1 tpy HAP. We have not proposed any emissions

limitations for existing flame lamination sources; therefore, we do not expect any emissions reductions from the baseline. However, the proposed NESHAP should result in a 90 percent reduction in HCl and HCN emissions from any new or reconstructed major sources. We calculate that a typical flame lamination operation emits 7.3 tpy of combined HCl and HCN, which would be reduced by 90 percent, for a total HAP emission reduction of 6.5 tpy from each new or reconstructed affected source. In addition, particulate matter emissions from flame lamination would also be reduced by any scrubber used to reduce the HAP emissions.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

Based on our analysis, we calculate that 64,700 gallons per year of wastewater will be generated by a new or reconstructed flame lamination source. The annual cost to treat this wastewater is less than \$250 per year. We do not expect that there will be any significant adverse non-air health, environmental, or energy impacts associated with the proposed NESHAP for flexible polyurethane foam fabrication plants.

C. What Are the Cost and Economic Impacts?

We have calculated no capital costs for loop splitter adhesive users and existing flame laminators because we are proposing that these sources only be subject to reporting and recordkeeping costs. We estimate that up to three new flame laminators may be built in the next 3 years, but only one of these would be a major source subject to the proposed NESHAP. This source would face capital costs associated with installation of a control device (e.g., scrubber) and monitoring equipment. The control and monitoring device capital cost is approximately \$65,000, and the annualized capital cost is approximately \$9,300. The average annual costs include labor costs associated with monitoring, reporting, and recordkeeping requirements and the operation, and maintenance of the required control equipment is approximately \$63,000 per year. In contrast, total industry revenues in 1997 (based on a North American Industry Classification System code of 32615) were approximately \$6.7 billion. Given that only one source will be affected and the cost of control is a very small portion of industry revenues, the economic impacts associated with this proposed rule are considered to be negligible.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB). The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed rule.

The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed rule.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This is because the proposed rule applies to affected sources in the flexible polyurethane foam fabrication industry, not to States or local governments. Nor will State law be preempted or any mandates be imposed on States or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule. The EPA notes, however, that although not required to do so by this Executive Order (or otherwise), it did consult with State governments during development of this proposed rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on

the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, because we are not aware of any Indian tribal governments or communities affected by the proposed rule. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Additionally, this proposed rule is not "economically significant" as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of

their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total annual cost of this proposed rule for any 1 year has been estimated at \$60,000 per year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's proposed NESHAP on small entities, a small entity is defined based on definitions provided by the Small Business Administration (SBA). Based on the SBA definitions, there are no small entities affected by the proposed NESHAP. Pursuant to the provisions of 5 U.S.C. 605(b), we hereby certify that the proposed NESHAP, if promulgated, will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 2027.01), and you may obtain a copy from Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 3,634 labor hours, and the annual average burden is 1,211 labor hours. The labor cost over the 3-year period is \$154,399 or \$51,466 per year. The annualized capital cost for monitoring equipment is \$997. Annual operation and maintenance costs are \$4,982 over 3 years, averaging \$1,661 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 8, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by September 7, 2001. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards. The EPA proposes in this rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, 26A, 311, and a method to measure HCN (section 63.7(c)(2)(i)). Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, nor a method to measure HCN. The search and review results have been documented and are placed in the docket (A-2000-43) for this proposed rule.

Five voluntary consensus standards: ASTM D1979-91, ASTM D3432-89, ASTM D4747-87, ASTM D4827-93, and ASTM PS 9-94 are incorporated by reference in EPA Method 311. One additional voluntary consensus standard was found in the search that is acceptable as an alternative to EPA Method 311. The voluntary consensus standard ISO 11890-2 Part 2, "Paints and Varnishes—Determination of Volatile Organic Compound (VOC) Content—Gas Chromatographic Method" is acceptable as an alternative for the measurement of HAP content of adhesives for the purposes of this proposed rule.

The search for emission measurement procedures identified eight other voluntary consensus standards applicable to this proposed rule. The EPA determined that six of these eight standards were impractical alternatives to EPA test methods for the purposes of this proposed rule. Therefore, EPA does not propose to adopt these standards today. The reasons for this determination for the six methods are discussed below.

The standard ISO 10780:1994, "Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in this proposed rule. This standard recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S-type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–2001, "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of this proposed rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard, limit EPA's ability to make a definitive comparison of the method in these areas.

The European standard EN 1911–1,2,3 (1998), "Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text," is impractical as an alternative to EPA Method 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

The remaining two of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of this proposed rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3796–90 (Reapproved 1996), "Standard Practice for Calibration of Type S Pitot Tubes," for EPA Method 2; and ASTM E337–84 (Reapproved 1996), "Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures),"

for EPA Method 4; and ASTM D3154–91 "Standard Method for Average Velocity in a Duct (Pilot Tube Method)," for EPA Methods 1, 2 2C, and 4.

The following two of the eight voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 1 (and possibly 2); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2. While we are not proposing to include these two voluntary consensus standards in today's action, the EPA will consider the standards when finalizing the rule.

The EPA takes comment on the compliance demonstration requirements in this proposed rule and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commentors should also explain why this proposed rule should adopt these voluntary consensus standards in lieu of or in addition to EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, Appendix A, was used).

Sections 63.8800 and 63.8802 of the proposed standard list the EPA testing methods included in the proposed rule. Under § 63.8 of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Flexible polyurethane foam fabrication operations, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 31, 2001.

Christine Todd Whitman,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Part 63 is amended by adding subpart M to read as follows:

Subpart M—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

What this Subpart Covers

Sec.

63.8780 What is the purpose of this subpart?

63.8782 Am I subject to this subpart?

63.8784 What parts of my plant does this subpart cover?

63.8786 When do I have to comply with this subpart?

Emission Limitations

63.8790 What emission limitations must I meet?

General Compliance Requirements

63.8794 What are my general requirements for complying with this subpart?

Testing and Initial Compliance Requirements

63.8798 By what date must I conduct performance tests or other initial compliance demonstrations?

63.8800 What performance tests and other procedures must I use to demonstrate compliance with the emission limit for flame lamination?

63.8802 What methods must I use to demonstrate compliance with the emission limit for loop slitter adhesive use?

63.8804 What are my monitoring installation, operation, and maintenance requirements?

63.8806 How do I demonstrate initial compliance with the emission limitations?

Continuous Compliance Requirements

63.8810 How do I monitor and collect data to demonstrate continuous compliance?

63.8812 How do I demonstrate continuous compliance with the emission limitations?

Notifications, Reports, and Records

63.8816 What notifications must I submit and when?

63.8818 What reports must I submit and when?

63.8820 What records must I keep?

63.8822 In what form and how long must I keep my records?

Other Requirements and Information

- 63.8826 What parts of the General Provisions apply to me?
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What This Subpart Covers**§ 63.8780 What is the purpose of this subpart?**

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) emitted from flexible polyurethane foam fabrication operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.8782 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a flexible polyurethane foam fabrication plant site that operates a flame lamination affected source, as defined at § 63.8784 (b)(2), and that is located at, or is part of a major emission source of hazardous air pollutants (HAP) or that operates a loop slitter affected source, as defined at § 63.8784 (b)(1), that meets the criteria in paragraphs (a)(1) and (2) of this section.

(1) The loop slitter affected source uses one or more HAP-based adhesives at any time on or after [Date of publication of the final rule in the **Federal Register**].

(2) The loop slitter affected source is located at or is part of a major source of HAP.

(b) A flexible polyurethane foam fabrication plant site is a plant site where pieces of flexible polyurethane foam are bonded together or to other substrates using HAP-based adhesives or flame lamination.

(c) A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons

or more per year or any combination of HAP at a rate of 25 tons or more per year.

(d) This subpart does not apply to the following processes in paragraphs (d)(1) and (2) of this section:

(1) Processes that produce flexible polyurethane or rebond foam as defined in subpart III of this part.

(2) A research and development process.

§ 63.8784 What parts of my plant does this subpart cover?

(a) This subpart applies to each existing, new, or reconstructed affected source at facilities engaged in flexible polyurethane foam fabrication.

(b) The affected sources are defined in this section in paragraph (b)(1), loop slitter adhesive use, and paragraph (b)(2), flame lamination, of this section.

(1) The loop slitter adhesive use affected source is the collection of all loop slitters and associated adhesive application equipment used to apply HAP-based adhesives to bond foam to foam at a flexible polyurethane foam fabrication plant site.

(2) The flame lamination affected source is the collection of all flame lamination lines associated with the flame lamination of foam to any substrate at a flexible polyurethane foam fabrication plant site.

(c)(1) A new affected source is one that commences construction after August 8, 2001 and meets the applicability criteria of § 63.8782 at the time construction commences.

(2) If you add one or more flame lamination lines at a plant site where flame lamination lines already exist, the added line(s) shall be a new affected source and meet new source requirements if the added line(s) has the potential to emit 10 tons per year or more of any HAP or 25 tons or more per year of any combination of HAP.

(d) A reconstructed affected source is one that commences reconstruction after August 8, 2001 and meets the criteria for reconstruction as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8786 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your new or reconstructed affected source before [Date of publication of the final rule in the **Federal Register**], then you must comply with the emission standards for new or reconstructed sources in this subpart no later than [Date of

Publication of the Final Rule in the **Federal Register**].

(2) If you start up your new or reconstructed affected source after [Date of publication of the final rule in the **Federal Register**], then you must comply with the emission standards for new or reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing loop slitter affected source, you must comply with the emission standards for existing sources no later than 1 year after [Date of publication of the final rule in the **Federal Register**].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP and an affected source subject to this subpart, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) A new affected source as specified at § 63.8784(c) or a reconstructed affected source as specified at § 63.8784(d) must be in compliance with this subpart upon startup.

(2) An existing affected source as specified at § 63.8784(e) must be in compliance with this subpart no later than 1 year after the date on which the area source became a major source.

(d) You must meet the notification requirements in § 63.8816 according to the schedule in § 63.8816 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission standards in this subpart.

(e) If you have a loop slitter affected source, you must begin collecting data prior to the compliance date specified in paragraph (b) of this section as necessary to demonstrate that your adhesives contain no HAP. The types of data necessary are described in §§ 63.8802 and 63.8810.

Emission Limitations**§ 63.8790 What emission limitations must I meet?**

(a) You must meet each emission limit in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements**§ 63.8794 What are my general requirements for complying with this subpart?**

(a) For each loop slitter adhesive use affected source, you must be in compliance with the requirements in this subpart at all times.

(b) For each new or reconstructed flame lamination affected source, you

must be in compliance with the requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(c) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(d) During the period between the compliance date specified for your new or reconstructed flame lamination affected source in § 63.8786, and the date upon which continuous compliance monitoring systems have been installed and verified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(e) For each new or reconstructed flame lamination affected source, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(f) For each monitoring system required in this section for new or reconstructed flame lamination sources, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface,

the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(g) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (g)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.8804;

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c),(e)(1), and (e)(2)(i).

Testing and Initial Compliance Requirements

§ 63.8798 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For each loop splitter affected source, you must conduct the initial compliance demonstration by the compliance date that is specified for your source in § 63.8786.

(b) For each new or reconstructed flame lamination affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8786 and according to the provisions in § 63.7(a)(2).

§ 63.8800 What performance tests and other procedures must I use to demonstrate compliance with the emission limit for flame lamination?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions in Table 3 of this subpart.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(e) You must determine the percent reduction of HAP emissions during the performance test according to paragraphs (e)(1) through (3) of this section.

(1) If you use chlorinated fire retardant foams, determine the percent reduction of hydrochloric acid (HCl) to represent HAP emissions from the source. If you do not use chlorinated fire retardant foams, determine the percent reduction of hydrogen cyanide (HCN) to represent HAP emissions from the source.

(2) Calculate the concentration of HAP at the control device inlet and at the control device outlet using the procedures in the specified test method.

(3) Compare the calculated HAP concentration at the control device inlet to the calculated HAP concentration at the control device outlet to determine the percent reduction over the period of the performance test, using equation 1 of this section:

$$R = \frac{\sum_{i=1}^n E_{\text{inlet}, i} - \sum_{i=1}^n E_{\text{outlet}, i}}{\sum_{i=1}^n E_{\text{inlet}, i}} \quad (100) \quad [\text{Eq. 1}]$$

Where:

R = Efficiency of control device, percent.

$E_{\text{inlet}, i}$ = HAP concentration of control device inlet stream for test run i , mg/dscm.

$E_{\text{outlet}, i}$ = HAP concentration of control device outlet stream for test run i , mg/dscm.

n = Number of runs conducted for the performance test.

(f) You must also meet the requirements in paragraphs (f)(1) and (2) of this section.

(1) Conduct the performance tests using foams that are representative of

foams typically used at your flame lamination affected source. If you use foams containing chlorinated fire retardants, you must conduct the performance tests using these foams.

(2) Establish all applicable operating limits that correspond to the control system efficiency as described in Table 3 to this subpart.

§ 63.8802 What methods must I use to demonstrate compliance with the emission limitation for loop splitter adhesive use?

To determine the HAP content in the adhesive used at your loop splitter affected source, use EPA Method 311 of appendix A of 40 CFR part 63, an approved alternative method, or any other reasonable means for determining the HAP content of your adhesives. Other reasonable means include, but are not limited to, a material safety data sheet (MSDS), provided it contains

appropriate information; a certified product data sheet (CPDS); or a manufacturer's hazardous air pollutant data sheet. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content. If the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations.

§ 63.8804 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.8800(f)(2) to monitor, you must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.8794(f) and (g) and in paragraphs (a)(1) through (6) of this section.

(1) You must operate your CPMS at all times that the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least four equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(3) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For liquid flow monitoring devices such as various types of flow meters, including magnetic, mass, thermal, fluidic oscillating, vortex formation, turbine, and positive displacement, you must meet the requirements in paragraphs (a) and (b)(1) through (4) of this section.

(1) You must locate the flow sensor and other necessary equipment in or as close to a position that provides a representative flow;

(2) You must use a flow sensor with a minimum measurement uncertainty of 2 percent of the flow rate;

(3) You must conduct at least semiannually a flow sensor calibration check; and

(4) You must perform at least monthly inspections of all components for integrity, of all electrical connections for continuity, and of all mechanical connections for leakage.

(c) For pH monitoring devices, you must meet the requirements in paragraphs (a) and (c)(1) through (4) of this section.

(1) You must locate the pH sensor so that a representative pH is provided;

(2) You must ensure the sample is properly mixed and representative of the fluid to be measured;

(3) You must check the pH meter's calibration on at least two points every 8 hours of process operation; and

(4) You must perform at least monthly inspections of all components for integrity and of all electrical connections for continuity.

(d) For pressure monitoring using devices such as manometers, gauges, and transducers (including strain gauges), you must meet the requirements in paragraphs (a) and (d)(1) through (5) of this section.

(1) You must locate the pressure sensor(s) so that a representative pressure is provided;

(2) You must use a means to minimize or eliminate pulsating pressure, vibration, and internal and external corrosion;

(3) You must use a gauge with a minimum measurement uncertainty of one-half inch of water or a transducer with a minimum measurement uncertainty of 1 percent of the pressure range;

(4) You must conduct daily pressure tap pluggage checks and quarterly calibration checks with manometers for gauges or monthly calibration checks with manometers for transducers; and

(5) You must conduct calibrations more frequently after prolonged excursions above the sensor's maximum rated operating pressure range.

(e) If you install a control device that requires monitoring parameters other than those listed in paragraphs (b) through (d) of this section, you must install a CPMS in accordance with paragraph (a) of this section, and you must include the information in paragraphs (e)(1) through (3) of this section in your site-specific monitoring plan, which is required at § 63.8794(f).

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

§ 63.8806 How do I demonstrate initial compliance with the emission limitations?

(a) You must demonstrate initial compliance with each emission limit

that applies to you according to Table 4 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8800 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.8816(e) through (h).

Continuous Compliance Requirements

§ 63.8810 How do I monitor and collect data to demonstrate continuous compliance?

(a) If you own or operate a loop splitter adhesive use affected source, you must meet the requirements in paragraphs (a)(1) and (2) of this section.

(1) Maintain a list of each adhesive and the manufacturer or supplier of each.

(2) Maintain a record of EPA Method 311, approved alternative method, or other reasonable means of HAP content determinations indicating the mass percent of each HAP for each adhesive.

(b) If you own or operate a new or reconstructed flame lamination affected source, you must meet the requirements in paragraphs (b)(1) through (3) of this section if you use a scrubber, or paragraph (b)(4) of this section if you use any other control device.

(1) Keep records of the daily average scrubber inlet liquid flow rate.

(2) Keep records of the daily average scrubber effluent pH.

(3) If you use a venturi scrubber, keep records of daily average pressure drop across the venturi.

(4) Keep records of operating parameter values for each operating parameter that applies to you.

(c) If you own or operate a new or reconstructed flame lamination affected source, you must meet the requirements in paragraphs (c)(1) through (4) of this section.

(1) Except for periods of monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, and malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonably preventable failure of the monitoring device to provide valid data. Monitoring failures that are caused by

poor maintenance or careless operation are not malfunctions.

(2) In data average calculations and calculations used to report emission or operating levels, you may not use data recorded during monitoring malfunctions, associated repairs, or recorded during required quality assurance or control activities. Nor may such data be used in fulfilling any applicable minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(3) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(4) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

§ 63.8812 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission limit and operating limit in Tables 1 and 2 to this subpart that applies to you according to the methods specified in Table 5 to this subpart.

(b) You must report each instance in which you did not meet each emission limit and each operating limit in Tables 1 and 2 to this subpart that apply to you. For new or reconstructed flame lamination affected sources, this includes periods of startup, shutdown, and malfunction. These instances are deviations from the operating limits in this subpart. These deviations must be reported according to the requirements in § 63.8818.

(c) For each new or reconstructed flame lamination affected source, you must operate in accordance with the startup, shutdown, and malfunction plan during periods of startup, shutdown, and malfunction.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur at a new or reconstructed flame lamination affected source during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur at a new or reconstructed flame lamination affected source during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(e) You also must meet the following requirements if you are complying with

the adhesive use ban for loop slitter adhesive use described in § 63.8790(a).

(1) If, after you submit the Notification of Compliance Status, you use an adhesive for which you have not previously verified percent HAP mass using the methods in § 63.8802, you must verify that each adhesive used in the affected source meets the emission limit, using any of the methods in § 63.8802.

(2) You must update the list of all the adhesives used at the affected source.

(3) With the compliance report for the reporting period during which you used the new adhesive, you must submit the updated list of all adhesives and a statement certifying that, as purchased, each adhesive used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

Notification, Reports, and Records

§ 63.8816 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f), and 63.9(b) through (h) that apply to you.

(b) If you own or operate an existing loop slitter or flame lamination affected source, submit an initial notification no later than 120 days after [Date of publication of the final rule in the **Federal Register**].

(c) If you own or operate a new or reconstructed loop slitter or flame lamination affected source, submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) If you own or operate a new or reconstructed flame lamination affected source, submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) If you own or operate a loop slitter affected source, submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) within 60 days of the compliance date specified in § 63.8786.

(f) If you own or operate a new or reconstructed flame lamination affected source, submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) that includes the results of the performance test conducted according to the requirements in Table 3 to this subpart. You must submit the notification before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) For each new or reconstructed flame lamination affected source, the

Notification of Compliance Status must also include the information in paragraphs (g)(1) and (2) that applies to you.

(1) The operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) The operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

(h) For each loop slitter adhesive use affected source, the Notification of Compliance Status must also include the information listed in paragraphs (h)(1) and (2) of this section.

(1) A list of each adhesive used at the affected source, its HAP content (percent by mass), and the manufacturer or supplier of each.

(2) A statement certifying that each adhesive that was used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

§ 63.8818 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each compliance report for new or reconstructed flame lamination affected sources semiannually according to paragraphs (b)(1) through (4) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8786 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8786.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8786.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(c) For each loop splitter adhesive use affected source, you may submit annual compliance reports in place of semiannual reports.

(d) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraph (b)(1) through (4) of this section.

(e) The compliance report must contain the information in paragraphs (e)(1) through (5) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If there are no deviations from any emission limitations (emission limit or operating limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period.

(5) For each deviation from an emission limitation that occurs, the compliance report must contain the information specified in paragraphs (e)(5)(i) through (iii) of this section.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(iii) Information on the number, duration, and cause for CPMS downtime incidents, if applicable, other than downtime associated with zero and span and other daily calibration checks.

(f) The compliance report for a new or reconstructed flame lamination affected source must also contain the following information in paragraphs (f)(1) through (3) of this section.

(1) If you had a startup, shutdown or malfunction at your new or reconstructed flame lamination affected source during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(2) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a

statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(3) If there were periods during which the CPMS was out-of-control in accordance with the monitoring plan, the date, time, and duration of each out-of-control period.

(g) The compliance report for a loop splitter adhesive use affected source must also contain the following information in paragraphs (g)(1) and (2) of this section.

(1) For each annual reporting period during which you use an adhesive that was not included in the list submitted with the Notification of Compliance Status in § 63.8816(h)(1), an updated list of all adhesives used at the affected source.

(2) A statement certifying that each adhesive that was used at the affected source during the reporting period met the emission limit in Table 1 to this subpart.

(h) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(3)(iii)(A) or 40 CFR 71.6(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(3)(iii)(A) or 40 CFR 71.6(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit) in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(i) For each startup, shutdown, or malfunction during the reporting period that occurs at a new or reconstructed flame lamination affected source and that is not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown and malfunction report.

(1) An initial report containing a description of the actions taken for the event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A followup report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless

you have made alternative reporting arrangements with the permitting authority.

§ 63.8820 What records must I keep?

(a) You must keep a copy of each notification and report that you submit to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(b) For each new or reconstructed flame lamination affected source, you must also keep the following records specified in paragraphs (b)(1) through (4) of this section.

(1) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(2) Records of performance tests, as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) For each loop splitter adhesive use affected source, you must keep the following records specified in paragraphs (c)(1) and (2) of this section.

(1) A list of each adhesive and the manufacturer or supplier of each.

(2) A record of EPA Method 311, approved alternative method, or other reasonable means of determining the mass percent of total HAP for each adhesive used at the affected source.

§ 63.8822 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.8826 What parts of the General Provisions apply to me?

Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.8828 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) that cannot be delegated to State, local, or tribal agencies are as follows:

(1) Approval of alternatives to requirements in §§ 63.8780, 63.8782, 63.8784, 63.8786, and 63.8790.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.8830 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act (CAA), in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Adhesive means any chemical substance that is applied for the purpose of bonding foam to foam, foam to fabric, or foam to any other substrate, other than by mechanical means. Products used on humans and animals, adhesive tape, contact paper, or any other product with an adhesive incorporated onto it in an inert substrate shall not be considered adhesives under this subpart.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including any operating limit); or

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

Flame lamination means the process of bonding flexible foam to one or more layers of material by heating the foam surface with an open flame.

Flame lamination line means the flame laminator and associated rollers.

HAP-based adhesive means an adhesive containing detectable HAP, according to EPA Method 311 or another approved alternative.

Loop slitter means a machine used to create thin sheets of foam from the large blocks of foam or “buns” created at a slabstock flexible polyurethane foam production plant.

Responsible official means responsible official as defined in 40 CFR 70.2.

Tables

TABLE 1 TO SUBPART MMMMM.—EMISSION LIMITS

[As stated in § 63.8790(a), you must comply with the emission limits in the following table:]

For . . .	You must . . .
1. Each existing, new, or reconstructed loop slitter adhesive use affected source.	Limit emissions from adhesives to zero HAP emissions.
2. Each new or reconstructed flame lamination affected source	Reduce HAP emissions by 90 percent.
3. Each existing flame lamination affected sources	There are no emission limits for existing flame lamination sources. However, you must submit an initial notification per § 63.8816(b).

TABLE 2 TO SUBPART MMMMM.—OPERATING LIMITS FOR NEW OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

[As stated in § 63.8790(b), you must comply with the operating limits in the following table:]

For each . . .	You must . . .
1. Scrubber	a. Maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. b. Maintain the daily average scrubber effluent pH within the operating range value established during the performance test. c. If you use a venturi scrubber, maintain the daily average pressure drop across the venturi within the operating range value established during the performance test.
2. Other type of control device to which flame lamination emissions are deducted.	Maintain your operating parameter(s) within the ranges established during the performance test and according to your monitoring plan.

TABLE 3 TO SUBPART M. PERFORMANCE TEST REQUIREMENTS FOR NEW OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

[As stated in § 63.8800, you must comply with the requirements for performance tests for new or reconstructed flame lamination affected sources in the following table using the requirements in rows 1 through 5 of the table if you are measuring HCl and using a scrubber, row 6 if you are measuring HCN and using a scrubber, and row 7 if you are using any other control device:]

For each new or reconstructed flame lamination affected source, you must . . .	Using . . .	According to the following requirements . . .
1. Select sampling port's location and the number of traverse ports.	Method 1 or 1A in appendix A to part 60 of this chapter.	Sampling sites must be located at the inlet and outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter.	
3. Determine gas molecular weight	Not applicable	
4. Measure moisture content of the stack gas ..	Method 4 in appendix A to part 60 of the stack this chapter..	Assume a molecular weight of 29 (after moisture correction) for calculation weight.
5. Measure HCl concentration if you use chlorinated fire retardants in the laminated foam.	Method 26A in appendix A to part 60 of this chapter.	
6. Measure HCN concentration if you do not use chlorinated fire retardants in the laminated foam.	A method approved by the Administrator	a. Measure total HCl emissions and determine the reduction efficiency of the control device using Method 26A. b. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for Venturi scrubbers) over the period of the performance test by computing the average of all of the 15-minute readings.
7. Determine control device efficiency and establish operating parameter limit with which you will demonstrate continuous compliance with the emission limit that applies to the source if you use any control device other than a scrubber.	EPA-approved methods and data from the continuous parameter monitoring system.	a. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i). Measure total HCN emissions and determine the reduction use efficiency of the control device. b. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for the venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) over the period of the performance test by computing the average of all of the 15-minute readings. a. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i). b. Collect operating parameter data as specified in the site-specific test plan.

TABLE 4 TO SUBPART M. INITIAL COMPLIANCE WITH EMISSION LIMITS

[As stated in § 63.8806, you must comply with the requirements to demonstrate initial compliance with the applicable emission limits in the following table:]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Each new, reconstructed, or existing loop slitter adhesive use affected source.	Limit emissions from adhesives to zero HAP emissions.	You do not use HAP-based adhesives.
2. Each new or reconstructed flame lamination affected source using a scrubber.	Reduce HAP emissions by 90 percent	The average HAP emissions, measured over the period of the performance test(s), are reduced by 90 percent.
3. Each new or reconstructed flame lamination affected source using any other control device.	Reduce HAP emissions by 90 percent	The average HAP emissions, measured over the period of the performance test(s), are reduced by 90 percent.

TABLE 5 TO SUBPART MMMMM.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND OPERATING LIMITS

[As stated in § 63.8812(a), you must comply with the requirements to demonstrate continuous compliance with the applicable emission limits or operating limits in the following table:]

For . . .	For the emission limits or operating limits . . .	You must demonstrate continuous compliance by . . .
1. Each new, reconstructed, or existing loop splitter affected source. 2. Each new or reconstructed flame lamination affected source using a scrubber.	Limit emissions from adhesives to zero HAP source. a. Maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance. b. Maintain the daily average scrubber effluent pH within the operating range established during the performance test. c. Maintain the daily average pressure drop across the venturi within the operating range established during the performance test. If you use another type of scrubber (e.g., packed bed or spray tower scrubber), monitoring pressure drop is not required.	Not using HAP-based adhesives. i. Collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to § 63.8804(a) through (c). ii. Reducing the data to 1-hour and daily block averages according to the requirements in § 63.8804(a). iii. Maintaining each daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. iv. Maintaining the daily average scrubber effluent pH within the operating range established during the performance test. v. If you use a venturi scrubber, maintaining the daily average pressure drop across the venturi within the operating range established during the performance test.
3. Each new or reconstructed flame lamination affected source using any other control device.	Maintain the daily average operating parameters above the minimum value established during the performance test, or within the range established during the performance test, as applicable.	a. Collected the operating parameter data according to the site-specific test plan. b. Reducing the data to one-hour averages according to the requirements in § 63.8804(a). c. Maintaining the daily average rate above the minimum value established during the performance test, or within the range established during the performance test, as applicable.

TABLE 6 TO SUBPART MMMMM.—REQUIREMENTS FOR REPORTS

[As stated in § 63.8818(a), you must submit a compliance report that includes the information in § 63.8818(e) through (g) as well as the information in the following table. Rows 1 and 3 of the following table apply to loop splitter affected sources. Rows 1 through 5 apply to flame lamination affected sources. You must also submit startup, shutdown, and malfunction reports according to the requirements in the following table if you own or operate a new or reconstructed flame lamination affected source.]

If . . .	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you.	There were no deviations from the emission limitations during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	There were no periods during which the CPMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	Contains the information in § 63.8818(e)(5).
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan..	Contains the information in § 63.8818(f)(3).
5. There was a startup, shutdown, or malfunction at a new or reconstructed flame lamination affected source during the reporting period that is not consistent with your startup, shutdown, and malfunction plan.	Contains the information in § 63.8818(i).

TABLE 7 TO SUBPART MMMMM.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to Subpart MMMMM	Explanation
§ 63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	

TABLE 7 TO SUBPART M. — APPLICABILITY OF GENERAL PROVISIONS TO SUBPART M — Continued

[As stated in § 63.826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to Subpart M	Explanation
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.8830.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements—applicability.	Yes.	§ 63.8786 specifies compliance dates.
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved].	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources specifies that become major.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes	
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that specifies become major.	Yes	
§ 63.6(d)	[Reserved]	Yes.	Only applies to new or reconstructed flame lamination affected sources.
§ 63.6(e)(1)–(2)	Operation and maintenance requirements.	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plans.	Yes	
§ 63.6(f)(1)	Compliance except during SSM	Yes	
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	Subpart M does not specify opacity or visible emission standards.
§ 63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards.	No	
§ 63.6(i)	Extension of compliance with emission standards.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	Except for loop splitter affected sources as specified in § 63.8798(a).
§ 63.7(a)(1)–(2)	Performance test dates	Yes	
§ 63.7(a)(3)	Administrator's section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and re-scheduling.	Yes.	
§ 63.7(c)	Quality assurance program and site-specific test plans.	Yes.	Unless otherwise specified, all of § 63.8 applies only to new or reconstructed flame lamination sources. Additional monitoring requirements for these sources are found in §§ 63.8794(f) and (g) and 63.8804.
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, record-keeping, and reporting.	Yes.	Subpart M does not refer directly or indirectly to § 63.11.
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1)–(3)	Applicability of monitoring requirements	Yes	
§ 63.8(a)(4)	Monitoring with flares	No	
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	Applies as modified by §§ 63.8794(f) and (g).
§ 63.8(c)(1)–(3)	Continuous monitoring system (CMS) operation and maintenance.	Yes	
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	

TABLE 7 TO SUBPART MMMMM.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to Subpart MMMMM	Explanation
§ 63.8(c)(6)	Zero and high level calibration checks ...	Yes	Applies as modified by § 63.8794(f).
§ 63.8(c)(7)–(8)	Out-of-control periods, including reorting	Yes.	
§ 63.8(d)–(e)	Quality control program and CMS performance evaluation.	No	Applies as modified by § 63.8794(f) and (g).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	Only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	Applies as modified by § 63.8794(g).
§ 63.9(a)	Notification requirements—applicability ..	Yes.	
§ 63.9(b)	Initial notifications	Yes	Except § 63.8816(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test.	No	Subpart MMMMM does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CMS notifications—date of CMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	Subpart MMMMM does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing ...	No	Applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	
§ 3.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.8820 and 63.8822 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i)–(xi)	Records related to startup, shutdown, and malfunction periods and CMS.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	Applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CMS.	Yes	Applies as modified by § 63.8794(g).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.8818 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes.	
§ 63.10(d)(3)	Opacity or visible emissions observations.	No	Subpart MMMMM does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(e)(1)	Additional CMS reports—general	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)(i)	Results of CMS performance evaluations	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)(ii)	Results of COMS performance evaluations.	No	Subpart MMMMM does not require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CMS performance reports.	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(e)(4)	Continuous opacity monitoring system data reports.	No	Subpart MMMMM does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes.	
§ 63.11	Control device requirements—applicability.	No	Facilities subject to subpart MMMMM do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.8828 lists those sections of subparts MMMMM and A that are not delegated.
§ 63.13	Addresses	Yes.	

TABLE 7 TO SUBPART MMMMM.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

[As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:]

Citation	Requirement	Applies to Subpart MMMMM	Explanation
§ 63.14	Incorporation by reference	Yes	Subpart MMMMM does not incorporate any material by reference.
§ 63.15	Availability of information/confidentiality ..	Yes.	

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